

**CITY OF MILWAUKIE  
CITY COUNCIL WORK SESSION  
NOVEMBER 5, 1996**

**Mayor Lomnicki** called the work session to order at 4:45 p.m. in the second floor conference room in City Hall.

Present were Councilmembers Farley, Schreiber, and Kappa; Dan Bartlett, City Manager; Pam Beery, City Attorney; Paul Elsner, City Attorney; Charlene Richards, Assistant to the City Manager; Brent Collier, Police Chief; Mike Swanson, Interim Fire Department Administrator; and Fire Captains Larry Dalrymple, Wes Johns, and Mark Tidwell.

**Information Sharing**

1. **Councilmember Kappa** discussed the upcoming work session on the Surface Water Master Plan.
2. **Councilmember Kappa** proposed an amendment to the City Council work session minutes of October 15, 1996, and the other members agreed to the change.
3. **Councilmember Kappa** announced a *Community Protection through Offender Risk Reduction* seminar on December 17 and 18 and suggested the notice be sent to Clackamas Cities mayors, councilors, and managers.

**Chronic Nuisance Ordinance**

**Collier** noted several properties in the City of Milwaukie that have been chronic nuisances for many years, and traditional policing practices have had little impact. A chronic nuisance is defined in the proposed ordinance as a property on which three or more nuisance activities have occurred in a 30-day period; any person associated with the property has engaged in three or more nuisance activities in a 30-day period; or it has been determined there is probable cause there have been drug-related activities within the previous 30 days. There are nineteen activities identified in the ordinance as nuisances. He reviewed the proposed procedure which begins with the Police Chief notifying the person in charge of the property.

**Mayor Lomnicki** asked if this was based on the same nuisance activity or a combination of any three of the nineteen identified activities. **Collier** said any of the nineteen activities would meet the intent of the ordinance.

**Councilmember Schreiber** asked if the lack of juvenile supervision was included as a nuisance activity. **Collier** said it is not covered specifically. **Elsner** added parental responsibility is open to an array of challenges. The list of violations may be amended later if found not effective.

**Councilmember Kappa** asked how personal issues between neighbors could be controlled. **Collier** said a dialogue would begin after his initial notification of the alleged offender.

Both **Councilmember Schreiber** and **Councilmember Kappa** were concerned the complaint procedure could be used inappropriately. **Bartlett** said in many cases the mediation process would be activated.

**Elsner** pointed out there was a mediation phase, and the Chief will use his professional judgment to determine if there is a dispute between neighbors. The City Manager will have the discretion whether to refer the matter to the City Attorney or not.

**Councilmember Kappa** said he was seeking clarification of how the ordinance would be administered.

**Collier** said the alleged offender has ten days to respond after being served with the notice. If a third incident occurs within 90 days, the City Manager may authorize the City Attorney to begin legal proceedings.

**Elsner** commented, if an activity is deemed as an immediate threat to the public at large, the notification process would be waived.

**Councilmember Farley** pointed out drug house operators could use the time to increase productivity before leaving.

**Councilmember Kappa** asked if the City had the ability to close the property. **Elsner** said this is not a foreclosure process, but the City may physically secure the property. It is not the intent, however, to create an eyesore in the neighborhood. The ordinance was drafted as a tool for the City to open discussions and provide the capability to enforce, if necessary.

**Councilmember Farley** asked if this ordinance was mainly about drug houses. **Collier** said nuisance activities identified in the ordinance could be taking place without the property being a drug house.

**Mayor Lomnicki** said he was not comfortable with the language in 9.20.030.A regarding the Chief's "authorized designate."

**Elsner** said the "authorized designate" portion could be removed; it was intended to provide organizational flexibility. **Mayor Lomnicki** said he felt there was too

great a separation between the Chief's administrative responsibilities and the next level.

**Bartlett** said nuisance activities 1 - 16 are ORS violations, and only 17, 18, and 19 are in the Milwaukie Municipal Code. He discussed the mediation process and code enforcement issues not listed in this proposed ordinance.

**Mayor Lomnicki** asked which court would consider these cases. **Elsner** said these cases would go to circuit court because it has injunctive powers. He pointed out the ordinance refers to activities that are a crime.

**Councilmember Farley** asked if this ordinance provided enough control. **Collier** indicated he believed it would be a very effective tool.

**Councilmember Kappa** understood a similar ordinance had been successful in the City of Portland, but he hoped it would not result in a lot of litigation. He indicated his agreement with the proposed amendment.

**Elsner** said he would delete reference to the Chief's "authorized designate" and leave the City Manager's decision as the final step. He felt the ordinance would provide an effective use of Milwaukie's limited resources.

**Mayor Lomnicki** asked why arrests were not made when problems continue. **Bartlett** said one problem property in Milwaukie has been in a continual cycle for twelve years. **Mayor Lomnicki** questioned the effectiveness of the ordinance in modifying behavior when the offender could simply move next door.

**Councilmember Schreiber** said this action is against the property, not the individual.

**Elsner** added, with jail overcrowding, some offenders are not even kept overnight. He pointed out the similarity between the chronic nuisance and the downtown core exclusion ordinances. **Mayor Lomnicki** said he wanted to be sure this tool would work with the criminal justice system.

**Collier** said most instances involve 20 - 40 individuals and is not limited to one or two suspects.

**Councilmember Kappa** asked if this ordinance was developed with a specific location in mind. **Collier** said the department has multiple locations in which it is interested.

## **Fire Issues**

**Bartlett** discussed the model used to help address issues and frame a decision. He recommended the City Council enter into discussions with Clackamas Fire District #1 (CCFD #1) and Oak Lodge to develop an intergovernmental agreement. He said the City of Milwaukie has six possible options, and he reviewed the issue of why a Fire Chief position is necessary. He added CCFD #1 and Oak Lodge have continued to discuss consolidation.

**Mayor Lomnicki** asked for a definition of the term “functional consolidation.” **Bartlett** defined “functional consolidation” as a contracting to merge activities of individual departments through a number of agreements that could range from the South Metro Fire Marshal’s services to a full merger.

**Mayor Lomnicki** asked if the City Council could make the decision or would a vote of the people be required. **Bartlett** said this would be an ORS 190 agreement, and a vote would not be required.

**Councilmember Kappa** said he did not think the Charter would require an election for a full merger, but he asked if there could be an election. **Bartlett** said the issue could go to a vote, but it is not necessary.

**Bartlett** said the Milwaukie Fire Department cannot operate much longer without a Chief. The City’s purpose is to provide high-quality fire rescue services at a cost within Measure 5 limitations. We also need to have the resources available for natural disasters or other emergencies. Decisions need to be made both on long-term fire services and what administrative support is needed. The question is whether Milwaukie continues to provide fire services as it has, or is district service more appropriate. He discussed the regional shift toward larger service providers. **Mayor Lomnicki** commented about 75% of the district was outside Milwaukie’s urban growth boundary.

**Bartlett** said the City must look at what it wants to achieve, preserve, and avoid in its decision-making process. Milwaukie wants to achieve a level of service which can be delivered more effectively and efficiently. The City also wants to preserve direct representation, maintain or enhance community identity, safeguard accountability, bear costs equitably, and extend its service when assured of recapturing its investment. Milwaukie also wants to avoid subsidizing service provided outside the City limits.

**Councilmember Kappa** urged service within the urban growth boundary be considered. The City’s realm of influence extends through the urban growth management area.

**Bartlett** discussed the absolute requirements: overall cost equal to the current budget and maintenance of a four-minute response time. The desirable

objectives included reduced cost and access to additional resources. The City's fire rating would be impacted based on availability of equipment to respond.

**Councilmember Farley** said he would like to see the actual figures. **Bartlett** said Milwaukie would have to meet with CCFD #1 to get those figures. He referred to a previous staff report which provided cost summaries. If a full merger were assumed, Milwaukie residents would see about a 60-cents per \$1,000 savings. He discussed the conditions of the City of Beaverton/Tualatin Valley Fire District merger. He reviewed a potential functional merger of battalion chiefs and indicated there is a need to talk with CCFD #1 and Oak Lodge board members.

**Councilmember Farley** asked if Milwaukie would have only one of the six battalion chiefs. **Bartlett** said that is correct and is based on the area served and the size of the force.

The group discussed the number of battalion chiefs on duty and potential for call out for major incidents.

**Councilmember Schreiber** asked how far in the future a consolidated district would be. **Bartlett** said the process, in reality, will be very slow.

**Councilmember Schreiber** said we should consider potential barriers based on the tax issue. She commented many people simply want the services and do not care who the provider is.

**Mayor Lomnicki** pointed out this would be a philosophical change that could begin to alter other services and the way the City has been doing business.

**Councilmember Kappa** said it is City Council's responsibility to consider how services will be provided in the future. **Councilmember Schreiber** added barriers need to be identified in order to provide good services.

**Councilmember Kappa** discussed potential changes in the City's direction and being able to respond to constituents' questions about representation. The City must look at issues in addition to fire service as it goes through urban growth planning. He did not want the City's current boundaries to restrict thinking and planning.

**Bartlett** modified the "achieve" section to include "City involvement in fire services planning within our UGMA." He discussed Operation Firestop and the near functional consolidation in 1986.

**Councilmember Schreiber** suggested the "preserve" section should be changed to read "a member of Council on the board" not "their board."

**Councilmember Farley** asked how much overlap there was in service. **Johns** said Milwaukie runs south to Concord and east to I-205 on first alarm.

**Bartlett** reviewed probable outcomes of the revised Three Cities Agreement and the urban reserve area proposed by Metro Executive Burton. He discussed the process and role of the Boundary Commission.

**Councilmember Kappa** said there needs to be an assurance Milwaukie Fire Department personnel will have advancement and cross-training opportunities.

**Mayor Lomnicki** said Milwaukie's Fire Department is operating efficiently at this time, all costs, such as capital investments, must be considered when discussing any mergers.

**Councilmember Kappa** asked if there would be a review process. **Bartlett** said, if there was a point in time when it made sense to bring the service back to the City, the City Council could petition by resolution for dissolution.

**Beery** discussed the four areas of difficulty in the Beaverton/Tualatin Valley merger. These were cost, quality of service, local control, and employee concerns and morale. Work on the merger took so long, it finally ended in a whimper.

**Councilmember Kappa** said there were too many questions, and it would probably take a long time to complete a consolidation.

**Bartlett** directed the group's attention to the flow chart developed by CCFD #1 Chief Bruegman, beginning with the 1991 South Metro Fire Marshal agreement. The next logical step was seen as a battalion and chief agreement. Milwaukie would gain three assistant chiefs and Bruegman would make strategic decisions. He discussed the value of Milwaukie's EOC facility and the delivery of emergency response services. There is interest in utilizing the City's dispatch center, but the District would have to transition to 800 MHz.

**Councilmember Kappa** asked if one of Milwaukie's officers would become battalion chief. **Bartlett** said that was correct, and he went on to say there could be an agreement for CCFD #1 to run fire fighter recruitments and develop a master list from which any agency could hire.

**Mayor Lomnicki** commented on the flow chart and the timeline leading to full integration in June 1998. Working in this timeframe there would be a very large leap in a little over one year. **Bartlett** said this is CCFD #1's ideal schedule and is quite optimistic. He discussed the expiration of the three-year serial levy in June 1998.

**Swanson** commented on the need for leadership in the Milwaukie Fire Department and knowledge that someone at the top fully understands the operation.

**Johns** said, from the operational standpoint, everything is getting done, but it will be necessary to weigh alternatives based on the outcome of Measure 47.

**Mayor Lomnicki** asked about the morale of the Fire Department personnel and if employees were comfortable with the additional responsibilities resulting from the flattening of the organization.

**Tidwell** said it is important for personnel to know the direction the organization will be taking. Mayor Lomnicki said the City needs to make the right decision and work toward it.

**Councilmember Kappa** said Milwaukie could contract with CCFD #1 for a fire chief.

**Bartlett** said the immediate need is for the chief and battalion chief positions, and there is a window of opportunity if Milwaukie comes to an agreement by February 1997. The City needs to negotiate and find out what Bruegman has in mind about these positions. He figured roughly there would be more focus on technical questions but less time than Swanson has spent on the interim administrative position.

**Councilmember Farley** asked the probable length of an agreement. **Bartlett** said there are cities that contract for administrative services. Milwaukie could probably have about a two- or three-year agreement with a 90-day cancellation clause. If that agreement works well, then next steps can be taken.

**Councilmember Farley** asked how this would impact union contracts. **Bartlett** said Milwaukie has a five-year agreement and a very good relationship with the unit. Bargaining agreements would have to be merged if there were full integration.

**Mayor Lomnicki** said, if staff is looking for City Council direction, it was his opinion to begin discussions on a chief and battalion chief agreement for February 1997. The City could get out of such a contractual agreement if necessary, and there would be time to consider long-term service options. He felt this action would be a good compromise.

**Bartlett** said in the past Councilors Kappa and Trotter have been the Milwaukee City Council representatives meeting with board members.

**Councilmember Kappa** said he did not want to be held to a strict timeline.

**Mayor Lomnicki** commented, if Measure 47 passes, both organizations will have to consider long-term impacts.

**Bartlett** said he would like to begin the chief and battalion chief discussions immediately and plan for other elements later.

**Johns** suggested making a list of priorities so there is a target beyond chief and battalion chief. **Bartlett** suggested modifying the outline contained in this work session's staff report.

**Councilmember Kappa** asked if additional work sessions were needed to cover the work being done.

**Mayor Lomnicki** said Council needs to discuss the urban services package in addition to working on Council transition and goal setting.

**Mayor Lomnicki** adjourned the work session at 6:45 p.m.

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Pat DuVal, Recorder/Secretary